IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Crl.MC.No. 2311 of 2007()

CRA.442/2007 of SESSIONS COURT, KOZHIKOE
CRMP.404/2007 of ADDL. SESSIONS COURT, VADAKARA

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PETITIONER: ACCUSED

C.CLEMENT, S/O.V.C.CHELLAPPAN, AGED 55 YEARS, R.K.MARBLES, 7TH MILE, TALIPARAMBA, KANNUR.
NOW RESIDING AT MALAYATTUMANGALATHIL, MANJADI PO., THIRUVALLA.

BY ADV. SRI.BLAZE K.JOSE

RESPONDENTS: COMPLAINANT

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1. P.MUHAMMED SABITH, S/O.ANDRU, AGED 37 YEARS, PONNAMBATH HOUSE, MAYANNUR P.O., VATAKARA.

2. THE STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ALONGWITH CRMC.NO.2321 OF 2007 ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. Nos.2311 & 2321 Of 2007

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Dated this the 19th day of July, 2007

ORDER

The grievance of the common petitioner in these two cases is that though the sentence imposed on him was suspended by the Sessions Court, he could not appear before the learned Magistrate within the stipulated time and execute the bonds. As there was delay, the learned Magistrate did not permit him to execute the bonds. The petitioner immediately applied before the learned Sessions Judge for enlargement of time. But that request was turned down on the plea that there is no specific provision in the Criminal Procedure Code.

2. The approach made by the learned Sessions Judge does not appear to be correct. I am of the opinion that the Court which imposed the condition does not lack jurisdictional competence to extend the period of time prescribed. Such course is not prohibited by the Code and the interests of justice certainly demand that the Courts must be in a position to exercise such powers that are necessary in the interests of justice. It is unnecessary to search for specific provision in the Criminal Procedure Code to authorise the Court to perform such consequent and ancillary powers, though only the High Courts and not subordinate courts have inherent powers.

3. These Crl.M.Cs are allowed. The petitioner is granted time till 26.7.07 to appear before the learned Magistrate and execute a bond as already directed by the learned Sessions Judge.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE